

PRISONER'S CIVIL RIGHTS COMPLAINT (Rev. 05/2015)

IN THE UNITED STATES DISTRICT COURT
FOR THE Southern DISTRICT OF TEXAS
Corpus Christi DIVISION

United States Courts
Southern District of Texas
FILED

MAY 9 2019

David J. Bradley, Clerk of Court

Michael Dean Perry 1838827
Plaintiff's Name and ID Number

McCConnell Unit
3001 S. Emily Drive, Beeville, Tx 78102
Place of Confinement

CASE NO. _____
(Clerk will assign the number)

1. Brian Collier Executive Director TDCJ
P.O. Box 99
Huntsville, Tx 77342
Defendant's Name and Address
2. Lorie Davis Director TDCJ
P.O. Box 99
Huntsville, Tx 77342
Defendant's Name and Address
3. Warden R. S. Fuentes
3001 S. Emily Drive
Beeville, Tx 78102
Defendant's Name and Address
(DO NOT USE "ET AL.")

4. Asst. Warden G. Miller
3001 S. Emily Drive
Beeville, Tx 78102
5. Asst. Warden D. Fernandez
3001 S. Emily Drive
Beeville, Tx 78102
6. Classification R. Samaniego
3001 S. Emily Drive
Beeville, Tx 78102
7. Law Librarian Candice Moore
3001 S. Emily Drive
Beeville, Tx 78102

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACKSIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the clerk of the United States district court for the appropriate district of Texas in the division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. If you are confined in the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), the list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate district court, the division and an address list of the divisional clerks.

FILING FEE AND IN FORMA PAUPERIS (IFP)

1. In order for your complaint to be filed, it must be accompanied by the statutory filing fee of \$350.00 plus an administrative fee of \$50.00 for a total fee of **\$400.00**.
2. If you do not have the necessary funds to pay the fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis*, setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six-month history of your inmate trust account. If you are an inmate in TDCJ-CID, you can acquire the application to proceed *in forma pauperis* and the certificate of inmate trust account, also known as *in forma pauperis* data sheet, from the law library at your prison unit.
3. The Prison Litigation Reform Act of 1995 (PLRA) provides "... if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." See 28 U.S.C. § 1915. Thus, the court is required to assess and, when funds exist, collect, the entire filing fee or a initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the court will apply 28 U.S.C. § 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your inmate trust account, until the entire \$350.00 statutory filing fee has been paid. (The \$50.00 administrative fee does not apply to cases proceeding *in forma pauperis*.)
4. If you intend to seek *in forma pauperis* status, do not send your complaint without an application to proceed *in forma pauperis* and the certificate of inmate trust account. Complete all essential paperwork before submitting it to the court.

CHANGE OF ADDRESS

It is your responsibility to inform the court of any change of address and its effective date. Such notice should be marked "**NOTICE TO THE COURT OF CHANGE OF ADDRESS**" and shall not include any motion for any other relief. Failure to file a NOTICE OF THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

I. PREVIOUS LAWSUITS:

- A. Have you filed *any* other lawsuit in state or federal court relating to your imprisonment? ✓ YES NO
- B. If your answer to "A" is "yes", describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)
 1. Approximate date of filing lawsuit: October 2018
 2. Parties to previous lawsuit:

Plaintiff(s) Michael Dean Perry

Defendant(s) Warden Robert Stevens
 3. Court: (If federal, name the district; if state, name the county.) Western
 4. Cause number: 6:18-cv-00277 ADA
 5. Name of judge to whom case was assigned: Alan D. Albright
 6. Disposition: (Was the case dismissed, appealed, still pending?) Dismissed 28 USC 1915(e)
 7. Approximate date of disposition: October 30, 2018

II. PLACE OF PRESENT CONFINEMENT McConnell Unit, 3001 S. Emily Drive, Beeville, Tx 78102

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted all steps of the institutional grievance procedure? ☒ YES ☐ NO

Attach a copy of your final step of the grievance procedure with the response supplied by the institution.

IV. PARTIES TO THIS SUIT:

A. Name and address of plaintiff: Michael Dean Perry, DOCTab. 1838827
McConnell Unit, 3001 S. Emily Drive, Beeville, Tx 78102

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: Brian Collier, Executive Director TDCJ, P.O. Box 99, Huntsville, Tx 77342
Deliberate Indifference.

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Implements a Policy that erroneously violates my Substantial Constitutional Rights.

Defendant #2: Lorie Davis, Director TDCJ, P.O. Box 99, Huntsville, Tx 77342
Deliberate Indifference.

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Implements a Policy that Treats my Constitutional Rights with deliberate indifference.

Defendant #3: Warden P. S. Fuentes, McConnell Unit, 3001 S. Emily Drive, Beeville, Tx 78102
Deliberate Indifference.

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Implements a Policy that Treats my Constitutional Rights with deliberate indifference.

Defendant #4: Asst. Warden G. Miller, McConnell Unit, 3001 S. Emily Drive, Beeville, Tx 78102
Deliberate Indifference

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Implements a Policy that Treats my Constitutional Rights with deliberate indifference.

Defendant #6: Classification R. Samaniego, McConnell Unit, 3001 S. Emily Drive, Beeville, Tx 78102
Deliberate Indifference

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Implements a Classification Plan that violates my Constitutional Rights.

Defendant #5: Assistant Warden O. Hernandez, McConnell Unit, 3001 S. Emily Drive, Beeville, Tx 78102
How he harmed me →

Implemented a Policy that Treats my Constitutional Rights with Deliberate Indifference.

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

1. As soon as I arrived at this unit I was locked up in Ad Seg and the Unit went on bi-annual lockdown on October 1st, 2018. The impediment to access to courts began at that time whereas, it took at or about (2) two weeks just to get the courts of Appeals addresses and research materials from the Unit Law Library. Yes, I filed a Step 1 grievance and soon thereafter the Campaign of Retaliation began. I filed the Step 1 on Candice Moore, the Law Librarian. I filed a myriad of grievances on Moore, Thompson, and Pranteau for impeding my access to courts, embezzling money from my trust fund account and retaliation for filing a grievance on them, filing complaints in the Appeals Court, and Complaint Affidavits to the Warden Si Everett. All the aforesaid will be included with this complaint, and in pungent detail! Official Oppression.

VI. RELIEF:

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

Remove Moore, Thompson, and Pranteau from the Law Library, also remove the SSI workers. Provide Access to courts unimpeded! Overhaul the ineffective grievance system, compensation of \$100,000.00 Access to Commissary every week. Provide outside recreation every day! Add New Staff! Remove Old!

VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases.

Michael Dean Perry AKA Panama-Writ Writer.

B. List all TDCJ-CID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you.

485493, 1838827, 1485557

VIII. SANCTIONS:

Note: No Monetary Sanctions, just denied IFB status, (ALRA)

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? YES ☒ NO

B. If your answer is "yes," give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): U.S. District Eastern Tyle, Tx
2. Case number: 6:07cv536, 6:01cv482, No. 02-41297, 6:12cv829?
3. Approximate date sanctions were imposed: July 16, 2002, Nov. 20, 2006, August 21, 2003, Nov 13, 2012
4. Have the sanctions been lifted or otherwise satisfied? Who knows. N/A YES N/A NO

V. STATEMENT OF CLAIM (Continued)

No top teeth and they rush us through chow. I being denied treatment for my hepatitis C. They tell me it's no longer detectable, indeed! They won't even replace the half inch rubber insert that goes into my left shoe to compensate for my leg discrepancy. And/or modify my shoe-prosthetics, ADA violations.

As an Aside: I now believe the Wartime Manager is actually named, Tanya Lawson, Defendant #13 on page No. 3! Sorry, no access to the Law Library or Duty Roster. Tanya Lawson has also been treating my medical care with deliberate indifference.

4. The Commissary Manager W. Delschlegel and her coworkers have been denying me access to Commissary in violation of DOJ Policy, and both State and Federal law whereas, the denial of postage stamps, writing supplies, carbon paper, and envelopes, effectively impedes my access to the courts, challenging the conditions of confinement, my right of Appeal, and to petition the government for redress. Not to mention denial of Access to my family and friends; Even denying me the privileges accorded other prisoners, for that matter all the guards too! They all get to purchase food, snacks, and Ice Cream, but not me! 105 days and no Commissary as of April 30, 2019 I've had to file for an extension of time in the 5th Circuit Court of Appeals and the United States Supreme Court.

We and other prisoners will expand on all these violations in the near future.

V. Statement of Claim Continued.

2. Prison Officials continue to engage in a campaign of harassment and retaliation for my protected conduct of Access to Courts and Public Officials, for challenging the conditions of confinement and for appealing my erroneous conviction. The Wardens, Sifuentes, Fernandez, and Miller have sanctioned the writing of fraudulent disciplinary cases and the blatant denial of due process rights at disciplinary hearings that were erroneously conducted by Captain R. Guevara, cases that were written by C/O Megan Thompson at the Law Library. Constituting tampering with a Governmental Record and Official Oppression. In fact, in November, 2018 293 cases were tossed out and another 85 halted due to a quota system at this Unit. C/O Thompson even wrote a Major case on me for a non-existent razor blade she said she found in my pocket at the Law Library when I wasn't even there! I haven't been to Commissary for a regular spend in 105 days as of April 30, 2019, and I'm no longer on restriction.

3. Medical Personnel at McConnell Unit have been denying me adequate medical treatment since I arrived here on October 1, 2018. No new eye glasses and my eye site in my left eye has deteriorated drastically in the last few months. P.A. Browner, and Dr. I. Kwanteng and P.A. Erik Echavarry have treated my medical treatment with deliberate indifference whereas, the 800 mg I buprofen I was prescribed at 2x twice per day for chronic pain - (2) two 30 pill containers per month, was erroneously changed to one pill container to last 30 days. Of which is impossible. 30 pills twice a day, will not last 30 days. I'm being denied dentures as well and I have

Page 2. Additional Defendants

8. Defendant #8: Megan Thompson, Correctional Officer, TDCJ (Law Library)
 Mc Connell Unit, 3001 S. Emily Drive, Beeville, Tx 78102

Briefly describe the acts or omissions of this defendant which you claimed harmed you!
 Megan Thompson has harassed me and retaliated against me and impeded my fundamental and Constitutional Rights to Access to Courts, to Petition my Government for redress, and to challenge the conditions of confinement, and she has written bogus disciplinary cases on me constituting tampering with a Governmental Record and Official Oppression!

9. Defendant #9: Unknown Pranteau, Correctional Officer, TDCJ (Law Library)

Briefly describe the acts or omissions of this defendant which you claimed harmed you!
 Unknown Pranteau has harassed me and retaliated against me and impeded my fundamental and Constitutional Rights to Access to Courts, to Petition my Government for redress, and challenge the conditions of confinement. Pranteau has conspired with Law Librarian Candice Moore and LLO Thompson to steal my postage stamps and money out of my Inmate Trust Fund Account

10. Defendant #10: R. Guevara, Captain Correctional Officer (Disciplinary)

Briefly describe the acts or omissions of this defendant which you claimed harmed you!
 Denied me due process during a disciplinary hearing, denied me compulsory process to obtain and call witnesses in my favor or to face my accuser, denied me a true and correct copy of the charging instrument that was legible. Punished me with arbitrary and excessive punishment. Used tampered with Governmental Records to find me guilty and Official Oppression. Kept me locked up in (PHD) Solitary up to the hearing date effectively denying me access to my witnesses - compulsory process - due process.

Page 3 Additional Defendants

11. Defendant #11. Captain Herbert, J. Captain of Corrections Officers, TDCJ McConnell Unit, 3001 S. Emily Drive, Beeville, TX 78102

Briefly describe the acts or omissions of this defendant which you claimed harmed you!

Captain J. Herbert, disobeyed a direct order from Assistant Warden D. Fernandez to let me go to commissary to purchase, inter alia, hygiene, postage stamps, and stationery in order to have access to courts and public officials and to stay clean! Notwithstanding all the other commissary items accorded other prisoners.

12. Defendant #12 W. Delschlegel Commissary Worker/Manager, McConnell Unit, 3001 S. Emily Drive, Beeville, TX 78102 Continues to mismanage the commissary and denies me the right to purchase items at commissary on a regular basis and as according to TDCJ Policy and the Law! Denies me the fundamental right to purchase, not only food and snacks, but basic necessities such as hygiene, medications, and postage stamps! Even denying me envelopes and writing paper!

13. Defendant #13 Tanya Lawson ^{Practice Manager} Commissary Worker/Manager, McConnell Unit, 3001 S. Emily Drive, Beeville, TX 78102 Continues to mismanage the commissary and denies me the right to purchase items at commissary on a regular basis and as according to TDCJ Policy and the Law! Denies me the fundamental right to purchase not only food and snacks, but basic necessities such as hygiene, medications, and postage stamps! Even denying me envelopes and writing paper! They tell Security that they pick and choose who goes to commissary, not the Warden or Rank!

Page 4. Additional Defendants

14. Defendant #14 I. Kwanteng Medical Director, McConnell Unit, 3001 S. Emily Drive, Beeville, tx 78102 The medical Director treated the constitutional rights of the Plaintiff with deliberate indifference. Defendant I. Kwanteng failed to provide me with proper medical treatment under the appropriate standard of care and with deliberate indifference and the wanton infliction of pain and in violation of the Americans with Disabilities Act and Rehabilitation Act. And failed to ensure the care of Veterans and their families, like me!

15. Defendants #15. Erick Echavarry Physicians Assistant, McConnell Unit, 3001 S. Emily Drive, Beeville, tx 78102 P.A. Echavarry treated the constitutional rights of the Plaintiff with deliberate indifference. Defendant Erick Echavarry failed to provide me with proper medical treatment under the appropriate standard of care and with deliberate indifference and the wanton infliction of pain and in violation of the Americans with Disabilities Act and Rehabilitation Act; And he failed to ensure the care of Veterans and their families, like me!

16. Defendant #16. Ruth Browner P.A.-C. Physicians Assistant, McConnell Unit 3001 S. Emily Drive, Beeville, tx 78102 P.A. Ruth Browner treated the constitutional rights of the Plaintiff with Deliberate Indifference. Defendant Ruth Browner failed to provide me with proper medical treatment under the appropriate standard of care and with deliberate indifference and the wanton infliction of pain and in violation of the Americans with Disabilities Act and Rehabilitation Act. And she failed to ensure the care of Veterans and their families, like me!

P.5 Additional Defendants

6. Defendant #7. Candice Moore Law Librarian, McConnell Unit 3001 S. Emily Drive, Beeville, TX 78102. Briefly Describe The acts or omissions of this defendant which you claimed harmed you.

Candice Moore is the Law Librarian at the McConnell Unit and has been impeding my access to courts and Public officials since I arrived at this unit on or about October 1, 2018. Candice Moore, Correctional Officers Thompson and VanTear are engaged in a conspiracy to impede my access to courts, my right of Appeal and to petition the Government for redress, Stealing my postage stamps and money out of my inmate trust fund for postage and indigent supplies I never requested and/or received. Supplies that the Law Librarian (SSI) Inmate workers are in fact stealing and selling to other prisoners. Law Librarian Candice Moore and her associates- Staffers, C/O Thompson and C/O VanTear are stealing/embezzling money from inmates trust fund accounts in order to compensate for the missing supplies to wit: paper, carbon paper, ink pens, and envelopes. C/O Megan Thompson has written at least (2) two fraudulent disciplinary cases on me in retaliation for writing a grievance on her for theft and impeding my access to courts. The most recent major case was written by C/O Aleman in which he accused me of being out of place when I came back from the law library after obeying a court order. The bogus case was written on April 16, 2019 and has yet to be adjudicated. As I explained to the Warden, I can't go to the dubious Law Library without getting a case. See the letter to the Warden and subsequent Affidavit.

Now prison officials will not let me go to Commissary (105) days as of April 30, 2019. No postage stamps, no writing supplies, no envelopes.

C. Has any court ever warned or notified you that sanctions could be imposed? _____ YES ☒ NO

D. If your answer is "yes," give the following information for every lawsuit in which a warning was issued. (If more than one, use another piece of paper and answer the same questions.)

1. Court that issued warning (if federal, give the district and division): _____
2. Case number: _____
3. Approximate date warning was issued: _____

Executed on: 5-1-2019

DATE

Michael Dean Perry
(Signature of Plaintiff)

PLAINTIFF'S DECLARATIONS

See Attached Affidavit.

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand, if I am released or transferred, it is my responsibility to keep the court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions or appeals (from a judgment in a civil action) in a court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire filing fee and costs assessed by the court, which shall be deducted in accordance with the law from my inmate trust account by my custodian until the filing fee is paid.

Signed this _____ day of _____, 20____.
(Day) (month) (year)

(Signature of Plaintiff)

WARNING: Plaintiff is advised any false or deliberately misleading information provided in response to the above questions may result in the imposition of sanctions. The sanctions the court may impose include, but are not limited to, monetary sanctions and the dismissal of this action with prejudice.